IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

(Special Original Jurisdiction)

WEDNESDAY, THE TENTH DAY OF NOVEMBER
TWO THOUSAND AND FOUR

PRESENT

THE HON'BLE MS JUSTICE G.ROHINI

WRIT PETITION NO : 19132 of 2004

Between:

K. Jayachandra Reddy, S/o. Subba Reddy,
10/1 Ward, FP Shop Dealer, Proddatur Town, Proddutur Mandal,
Kadapa District.

..... PETITIONER

AND

1 The Joint Collector, Kadapa, Kadapa District.
2 The Revenue Divisional Officer, Jammalamadugu, Kadapa District.
3 The Mandal Revenue Officer, Proddutur Mandal, Kadapa District.

.....RESPONDENTS

Petition under Article 226 of the constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court will be pleased to issue a Writ of Mandamus or any other appropriate Writ, Order or Direction declaring the action of the 2nd Respondent in issuing Ref.B/1019/2004, dated 21-9-2004 as arbitrary, illegal and unconstitutional and consequently direct the Respondents to continue the Petitioner as FP shop Dealer of 10/1 ward, Proddutur Town, Kadapa District,

Counsel for the Petitioner: MR.T.NAGARJUNA REDDY

Counsel for the Respondents: GP for Civil Supplies.

The Court at the stage of admission made the following:

THE HON'BLE MS. JUSTICE G.ROHINI

WRIT PETITION NO.19132 OF 2004

ORAL ORDER :

Heard the learned Counsel for the petitioner, learned Government Pleader for respondents and perused the material on record.

This writ petition is filed seeking a declaration that the order of the second respondent dated 21-09-2004, whereunder the authorization of the petitioner was suspended pending enquiry as arbitrary and illegal and consequently direct the respondents to continue the petitioner as the Fair Price Shop Dealer of 10/1 Ward, Proddatur Town, Kadapa District.

Despite notice, the respondents did not choose to file any counter-affidavit.

As can be seen from the impugned order, the only allegation, on which the authorization of the petitioner was suspended, is that the petitioner is not running the Fair Price Shop in question and that the same is being run by one Sankar Reddy. Having regard to the nature of the allegation, the learned Counsel for the petitioner contends that the suspension of authorization till the completion of the enquiry is unwarranted and therefore the impugned order is liable to be set aside.

The law is well settled that suspension pending enquiry cannot be made as a matter of course and that the licensing authority is bound to exercise the discretion reasonably and bona fide considering the facts and circumstances of the case. In all cases where it is possible to give an opportunity to the licensee, the licensing authority should not resort to the drastic step of suspension as an invariable rule. In the case on hand, since there is no allegation of diversion of stocks to black-market or any other grave allegation of misappropriation, I find force in the contention of the learned Counsel for the petitioner that the suspension of authorization pending enquiry is not warranted. Instead, the first respondent ought to have issued a notice and conducted an enquiry into the allegations.

Having regard to the facts and circumstances of the case, the impugned order is set aside and the Writ Petition is disposed of leaving it open to the respondents to proceed with the enquiry initiated against the petitioner and pass appropriate orders in accordance with law. No costs.

10th November, 2004.

ghn

To

1 The Joint Collector, Kadapa, Kadapa District.

2 The Revenue Divisional Officer, Jammalamadugu, Kadapa District.

3 The Mandal Revenue Officer, Proddutur Mandal, Kadapa District.

4 Two CCs to the Government Pleader for Civil Supplies, High Court of A.P., Hyderabad. (O.U.T.)

5 Two CD copies.